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10/731,324	12/09/2003	William Kenneth House	FORM-0003	5027

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EXAMINER

GLESSNER, BRIAN E

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

## Application No.

10/731,324

## Applicant(s)

HOUSE ET AL.

## Examiner

Brian E. Glessner

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MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/9/03.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

The following office action is in response to the application filed on December 9, 2003.

The IDS and drawings have been received. The drawings are objected to as set forth below.

Claims 1-13 are pending in the application. Claims 1-13 are rejected.

#### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference character(s) mentioned in the description: Reference number 84 is not in the figures as disclosed on page 7, line 2. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Reference number 80, shown in figure 5, is not in the specification. Corrected drawing sheets, or amendment to the specification to add the reference character(s) in the description, are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement

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Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7 and 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Utzman (1,967,846).

In regard to claim 1, Utzman discloses a method of making a drywall joint, comprising the steps of (a) positioning a butt block 3 that has a recessed surface on an interior side of a joint that is to be formed between a first drywall sheet 2 and a second drywall sheet 2, (b) securing at least one of the first and second drywall sheets to the butt block so that the secured sheet is made to conform in shape to the recessed surface, thereby forming a secondary recess on an exterior of the drywall sheet in the area at which the joint is to be made, and (c) applying joint compound within the secondary recess, figure 1, page 1, lines 20-40, and page 2, lines 32-47.

In regard to claim 2, Utzman discloses the claimed method, wherein step (b) is further performed by securing both the first and second sheets to the recessed surface, whereby the secondary recess is formed on an exterior of both of the drywall sheets in the area at which the joint is to be made.

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In regard to claims 3 and 4, Utzman discloses the claimed method, wherein step (b) is further performed by securing first portions of the respective sheets to the butt block, i.e. at surfaces 4, and then securing second portions of the sheets, which are closer to the area at which the joint is to be made than the first portions, to the butt block, i.e. at surfaces 5, thereby gradually pulling the sheets against the recessed surface to form the secondary recess.

In regard to claim 5, Utzman discloses the claimed method, wherein step (c) is performed so as to complete a joint that is substantially planar on an exterior surface thereof, page 1, lines 35-37.

In regard to claim 6, Utzman discloses a butt block 3 for forming a drywall joint, comprising a first surface 4 for engaging a first sheet of drywall 2, a second surface 4 for engaging a second sheet of drywall 2, and recess defining means 5 for defining a recessed area between said first and second surfaces, said recess defining means being constructed and arranged to be drawn into contact with butt edge areas of the first and second sheets of drywall when fully secured to said sheets of drywall, whereby the butt edge areas will be caused to form a concave secondary recess on an exterior surface of the drywall joint, figure 1.

In regard to claim 7, Utzman discloses the claimed invention, wherein said butt block is fabricated from a material that may be penetrated by a drywall screw and that will provide sufficient anchoring for the drywall screw for the drywall screw to be able to pull the butt edge area of a sheet of drywall against the recessed area.

In regard to claim 9, Utzman discloses the claimed invention, wherein said butt block further comprises first and second outboard flange members, and wherein said first and second surfaces 4 are defined, respectively, on said first and second outboard flanges.

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In regard to claim 10-12, Utzman discloses a drywall joint comprising, a first sheet of drywall 2 having a first butt edge, a second sheet of drywall 2 having a second butt edge, said first and second sheets of drywall being positioned so that said first butt edge is adjacent to said second butt edge at a butt interface, see figure 1, recess forming means 5 engaging said first and second sheets for pulling said first and second butt edges inwardly so as to define a secondary recess in exterior surfaces of the first and second sheets in the area of the butt interface, and a sealant applied in said secondary recess, wherein said sealant comprises a solidified joint compound, and said sealant is applied so that an outer surface of said sealant is positioned substantially within a common plane with exterior surfaces of said first and second sheets of drywall that are not affected by said recess forming means, figure 1, page 1, lines 20-40, and page 2, lines 32-47.

In regard to claim 13, Utzman discloses the claimed invention, wherein said recess forming means comprises a butt block 3 comprising a first surface 4 for engaging a first sheet of drywall 2, a second surface 4 for engaging a second sheet of drywall 2, and recess defining means 5 for defining a recessed area between said first and second surfaces, said recess defining means being constructed and arranged to be drawn into contact with butt edge areas of the first and second sheets of drywall when fully secured to said sheets of drywall, whereby the butt edge areas will be caused to form a concave secondary recess on an exterior surface of the drywall joint, figure 1.

3. Claims 6, 7, and 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Hunter (4,237,669).

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In regard to claim 6, Hunter discloses a butt block 4 for forming a drywall joint, comprising a first surface 4E for engaging a first sheet of drywall 1, a second surface 4C for engaging a second sheet of drywall 1, and recess defining means 4K for defining a recessed area between said first and second surfaces, said recess defining means being constructed and arranged to be drawn into contact with butt edge areas of the first and second sheets of drywall when fully secured to said sheets of drywall, whereby the butt edge areas will be caused to form a concave secondary recess on an exterior surface of the drywall joint, figure 2. The sheets are in contact with the recess area at the center of the surface 4K.

In regard to claim 7, Hunter discloses the claimed invention, wherein said butt block is fabricated from a material that may be penetrated by a drywall screw and that will provide sufficient anchoring for the drywall screw for the drywall screw to be able to pull the butt edge area of a sheet of drywall against the recessed area.

In regard to claim 9, Hunter discloses the claimed invention, wherein said butt block further comprises first and second outboard flange members 4E and 4C, and wherein said first and second surfaces are defined, respectively, on said first and second outboard flanges.

In regard to claim 10-12, Hunter discloses a drywall join comprising, a first sheet of drywall 1 having a first butt edge, a second sheet of drywall 1 having a second butt edge, said first and second sheets of drywall being positioned so that said first butt edge is adjacent to said second butt edge at a butt interface, see figure 2, recess forming means 4K engaging said first and second sheets for pulling said first and second butt edges inwardly so as to define a secondary recess in exterior surfaces of the first and second sheets in the area of the butt interface, and a sealant 10 applied in said secondary recess, wherein said sealant comprises a

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solidified joint compound, and said sealant is applied so that an outer surface of said sealant is positioned substantially within a common plane with exterior surfaces of said first and second sheets of drywall that are not affected by said recess forming means, column 2, lines 36-50.

In regard to claim 13, Hunter discloses the claimed invention, wherein said recess forming means comprises a butt block 4 comprising a first surface 4E for engaging a first sheet of drywall 1, a second surface 4C for engaging a second sheet of drywall 1, and recess defining means 4K for defining a recessed area between said first and second surfaces, said recess defining means being constructed and arranged to be drawn into contact with (i.e. contact is made at the center of surface 4K) butt edge areas of the first and second sheets of drywall when fully secured to said sheets of drywall, whereby the butt edge areas will be caused to form a concave secondary recess on an exterior surface of the drywall joint, figure 2.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Utzman (1,967,846) in view of Sanger (5,381,635).

In regard to claim 8, Utzman discloses the claimed invention except for specifically disclosing that said butt block is fabricated from a material comprising fiberglass. However, Utzman does disclose that the butt block 3 could be wood or metal or the like, page 2, lines 71-75. Therefore, Utzman does teach that different types of materials could be used for his



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support/butt block. Sanger teaches that it is known to use plastic, such as polyvinyl chloride or many other types of plastic, to form supports 20 that are capable of receiving drywall fasteners, column 7, lines 46-52. Although Sanger does not specifically disclose the use of a plastic that contains fiberglass, he does disclose, as stated above, that many other plastics could be used. Thus, since fiber reinforced plastics are known, the examiner would like to point out that fiber reinforced plastic would be encompassed by Sanger's teaching of the many other plastics. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a fiber reinforce plastic for Utzman's member 3, because the fiber reinforced plastic will be easy to form in the desired configuration. Fiber reinforced plastic will also be stronger and cheaper to produce than other materials such as metal or wood.

6. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter (4,237,669) in view of Utzman (1,967,846).

In regard to claim 1, Hunter discloses a method of making a drywall joint, comprising the steps of (a) positioning a butt block 4 that has a recessed surface 4K on an interior side of a joint that is to be formed between a first drywall sheet 1 and a second drywall sheet 1, (b) securing at least one of the first and second drywall sheets to the butt block so that the sheet is secured to the recessed surface, thereby forming a secondary recess on an exterior of the drywall sheet in the area at which the joint is to be made, and (c) applying joint compound within the secondary recess, column 2, lines 36-50. Hunter does not specifically disclose that the sheet conforms in shape to the recessed surface. Utzman teaches that it is known to provide a recessed surface in which the drywall sheet conforms to when compressed by fasteners. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make Hunter's recess

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V-shaped like Utzman's, because the V-shaped recess will provide a gradual sloping surface that will provide support for the sheet along the entire surface of the sheet. Therefore, there sheet will be less likely to crack at the sharp edge between surfaces 4D and 4E of that form Hunter's recess.

In regard to claim 2, Hunter in view of Utzman disclose the basic claimed method, wherein step (b) is further performed by securing both the first and second sheets to the recessed surface, whereby the secondary recess is formed on an exterior of both of the drywall sheets in the area at which the joint is to be made.

In regard to claims 3 and 4, Hunter in view of Utzman disclose the basic claimed method, wherein step (b) is further performed by securing first portions of the respective sheets to the butt block, i.e. at surfaces 4, an then securing second portions of the sheets, which are closer to the area at which the joint is to be made than the first portions, to the butt block, i.e. at surfaces 5, thereby gradually pulling the sheets against the recessed surface to form the secondary recess. This step is shown by Utzman where he attaches the sheet to surfaces 4 and surfaces 5 through the use of fasteners. The surfaces 4 would be equivalent to the surfaces 4E and 4C of Hunter's device.

In regard to claim 5, Hunter in view of Utzman disclose the basic claimed method, wherein step (c) is performed so as to complete a joint that is substantially planar on an exterior surface thereof, column 2, lines 47-49.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter (4,237,669) in view of Ferguson (5,799,458)

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In regard to claim 8, Hunter discloses the claimed invention except for specifically disclosing that said butt block is fabricated from a material comprising fiberglass. Ferguson teaches that it is known to use metal, plastic or hard rubber for a butt block device (column 6, lines 53 and 54). Although Ferguson does not specifically disclose the use of a plastic that contains fiberglass, the examiner takes the position that fiber reinforced plastic is a commonly known plastic material that would be known by those having ordinary skill in the plastic art to be encompassed by the generic term "plastic". It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a fiber reinforce plastic for Hunter's member 4, because the fiber reinforced plastic will be easy to form in the desired configuration. Fiber reinforced plastic will also be stronger and cheaper to produce than other materials such as metal or wood.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Glessner whose telephone number is 703-305-0031. The examiner can normally be reached on Monday-Friday 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brian E. Glessner  
Primary Examiner  
Art Unit 3635

B.G.  
July 14, 2004